

MINUTES

The Kent County Planning Commission met in regular session on Thursday, June 3, 2021, in the County Commissioners' Hearing Room at 400 High Street, Chestertown, Maryland. It was a hybrid meeting, and the following members were in attendance: Kim Kohl, Chairman; F. Joseph Hickman, Vice Chairman (attending in person); County Commissioner P. Thomas Mason; Tyler Brown, Paul J. Ruge, Jr.; William Sutton (attending in person); and Cynthia L. McCann, Esq., Planning Commission Attorney. Staff in attendance were William Mackey, Director; Carla Gerber, Deputy Director (attending in person); and Sandy Adams, Clerk (attending in person).

Ms. Kohl called the meeting to order at 1:30 p.m.

MINUTES

Mr. Ruge made a motion to accept the minutes of the May 6, 2021, meeting as distributed.

Mr. Sutton seconded the motion; the motion passed with all in favor.

APPLICATIONS FOR REVIEW:

#21-22 David A. Bramble, Inc. –Special Exception – Renewal of Existing Sand & Gravel Pit

Ms. Gerber gave a description of the proposal, cited the applicable laws, staff and TAC comments, and staff's recommendation.

David A. Bramble, Inc., requests renewal of the special exception to continue operation of an existing sand and gravel pit on a 164.675-acre property owned by Margaret K. Bramble, LLC, located 8415 Rock Hall Road (MD Route 20) near Fairlee. The excavation site comprises 19.66 acres located interior to the property, which is also otherwise farmed, and only 25 percent of the allowed area of the operation is used at one time. Access to the sand and gravel pit is by an unimproved farm lane from MD Route 20 that also serves a residential lot and agricultural structures on the farm. The applicant's narrative advised that there are no employees permanently located at this site. The materials excavated from this sand and gravel pit support the operation of David A. Bramble, Inc.

The parcel is zoned "AZD", Agricultural Zoning District, and is generally surrounded by farmland and woodland. In 2018, the Orem family completed two adjustments of lot lines for two residential lots located interior to the property (Parcel 8, Lot 2 and Parcel 157). In 2019, Margaret K. Bramble, LLC, purchased Parcel 8, Lot 2 on which is located the house closest to the gravel pit. Parcel 157 is owned by an unrelated party. One of the adjustments of lot lines inadvertently encroached on the gravel pit by 1.37 acres. As part of this renewal application, the applicant is seeking to shift that 1.37 acres to the west side of the pit limits. This pit has been in operation since 1984 and has been regularly renewed.

Ms. Gerber read aloud the Applicable Law and Staff and TAC Comments. Ms. Gerber said staff recommends forwarding a favorable recommendation with the same conditions of approval from 2016:

- The operation shall not be enlarged beyond 19.66 acres.
- The special exception shall be granted for a period of five (5) years.
- The operation must have an approved operating and restoration plan from the Surface Mining Division of the Maryland Department of the Environment's Water Resources Administration (the "SMD") in place at all times.

- The applicant's mining permit, sediment and erosion control plan, and operating and restoration plan must be strictly followed at all times.

Ms. Gerber informed the Commission that she had telephone conversations with two of the applicant's adjacent neighbors, Mr. Merkle and Ms. Council. She said both neighbors support the application for renewal and do not have any complaints about the gravel pit.

Ms. Kohl asked if there was any additional correspondence. Ms. Gerber said no additional correspondence had been received.

Present (in-person) at the meeting and duly sworn in were: Megan Owings, David A. Bramble, Inc. and Margaret K. Bramble, LLC; Keith Dill, David A. Bramble, Inc.; and Kevin Shearon, DMS & Associates.

Ms. Bramble introduced her team. She said that she is General Counsel for David A. Bramble, Inc. and a Member at Margaret K. Bramble, LLC; Keith Dill is the Safety Officer and manages the pit operations at the Orem Farm; and Kevin Shearon is the architect who prepared the project plans. Ms. Bramble said she has a couple of points of clarification to make with regards to the TAC comments: The Pit is approved at 19.66 acres, not the 18 +/- acres as noted on the TAC plan. The difference is the plan included with the application did not include the haul road. When you factor that in, the total acreage is 19.66 acres. The Maryland Department of the Environment (MDE) was contacted to determine how they want to handle the shift in acreage, and they had no problem with it. They will keep the Exhibit documenting the shift in acreage in their file. Ms. Bramble said due to the pandemic, most of the MDE employees are still teleworking, and therefore, MDE has provided them with an informal letter noting their acceptance via email. She said they hope to have a formal letter prior to the Board of Appeals meeting. Ms. Owings said as areas are reclaimed, the intent would be to move forward in a westerly direction, but she added that any change in that regard would come before the Planning Commission, Board of Appeals, and MDE.

Ms. Kohl asked if there were any questions.

Mr. Hickman asked for more clarification pertaining to the change in the location of the Pit. Ms. Owings said when the lot line adjustment was done, it ended up crossing the pit limits. Ms. Gerber referred everyone to the Exhibit in their meeting packet. She said the light blue crosshatched area was inadvertently included in the Council property, and the dark blue striped area on the west side is what is being relocated into the Pit. Ms. Owings reiterated that MDE is fine with the shift. Ms. Gerber said she spoke with Mr. Merkle, the adjacent property owner, and forwarded him the application packet so that he had the full documentation. Ms. Owings said she also spoke to Mr. Merkle's counsel.

Mr. Ruge asked for further clarification pertaining to the cross hatching on the Exhibit that was included in the meeting packet. Ms. Bramble said the light blue hatching is part of the original pit limits for the approved surface mining operation. She explained that the Orem family did a lot line adjustment expanding the lot that existed there and when the lot line adjustment occurred, the hatching area noted on the plan represents where the lot encroached on the approved pit limits. She said the area of 1.37 acres is being moved to the western portion of the pit limit which is shown on the Exhibit in dark blue spread across the western limit at 50 feet in width.

Mr. Hickman made a motion to send a favorable recommendation to the Board of Appeals for a special exception to continue operation of an existing sand and gravel pit comprised of 19.66 acres. The decision was based on the following findings:

- The size of the property is more than adequate for the existing use.

- The relocation of the 1.37 acres to the western side of the pit will not inadvertently affect the neighboring properties.
- Traffic patterns remain similar since the original application in 1984.
- The State Highway Administration has no issues or concerns with County approval.
- The property is surrounded by farmland and woodland.
- It is not close to public worship or historic places.
- There is no evidence of negative impact on community facilities and services.
- There has been no negative impact on historic or cultural landmarks.
- The applicant has taken appropriate measures to control potential negative effects from noise, vibration, smoke and particulate matter, toxic matter, odor, fire or explosion hazards, or glare upon surrounding properties.
- There are no known threatened or endangered species located on the property.
- Forested areas or woodlands on the farm will not be disturbed by this operation.
- Environmentally sensitive areas on the farm, such as the West Fork of Langford Creek, will not be disturbed.
- The operation has been in existence since 1984, renewed on five-year cycles, and there have been no complaints. Additionally, in the 2011 renewal, it was noted that additional screening was not required.
- With the prior renewals, the record has been devoid of any evidence that the use would impact property values, water quality, fish, wildlife, or plant habitat.
- The proposal is consistent with the Comprehensive Plan, the general intent and the use, design, and environmental standards found in the *Land Use Ordinance*.
- The Commission finds that it follows the guidelines of the Agricultural Zoning District.
- The special exception shall be for a period not to exceed five years.
- Material is not brought from off-site for processing, mixing, or similar uses.
- The excavation or extraction operation shall be controlled to offer reasonable protection to surrounding properties and the neighborhood, particularly as it regards to the use of residential streets for access to the site.
- The operation will not disturb for future use prime agricultural lands or forest of more than one acre.
- The operation will not degrade water quality.
- The operation does not disturb the minimum 100-foot buffer or stream protection corridor.
- The operation is under an approved operating and restoration plan from the State of Maryland.
- The operation does not adversely affect a non-tidal wetland directly or hydrologically.
- The location of the excavation or extraction with respect to property lines, the depth of excavation, and relation to the water table or flood criteria and the slope of the sides of the excavation shall be controlled to prevent a continuing, unsightly, hazardous, or wasteful condition of the land.
- The operation shall not be enlarged beyond 19.66 acres.
- The operation must have an approved operating and restoration plan from the Surface Mining Division of the Maryland Department of the Environment's Water Resources Administration (the "SMD") in place at all times.
- The applicant's mining permit, sediment and erosion control plan, and operating and restoration plan must be strictly followed at all times.

Mr. Sutton seconded the motion; the motion passed with all in favor.

ANNUAL REPORT

Ms. Gerber provided a summary of the 2020 Annual Report and the letter that is required to be submitted to the Maryland Department of Planning by July 1st:

- Compared to 2019, there were only 45 fewer permits reviewed in 2020.

- The construction of New Single-Family Dwellings (NSFD) increased from 24 to 34.
- The Planning Commission reviewed 6 major site plans: 2 for new businesses; the rest were for the enhancement and expansion of existing businesses.
- As in previous years, accessory buildings and residential alterations and additions continue to account for the greatest number of permits.
- All Board and Commissions staffed by the Planning Department continued to meet as needed.
- The Comprehensive Rezoning Process has begun.
- Throughout the pandemic, there was a shift in how to conduct business in order to provide opportunity for both the public and applicants to participate in the process.
- Regarding the letter to the Department of Planning: 14 permits are in Priority Funding Areas (PFA); 20 NSFDs are outside PFAs, but only 5 were located in the Priority Preservation Area (PPA) and 3 were replacement dwellings.

Ms. Gerber said the County continues to grow at a slow pace, and it is continuing to put development in areas where it has been determined it to be appropriate.

Ms. Gerber informed the Commission that she hopes to have the traditional, full annual report available once the Planning Department is fully staffed.

Mr. Sutton made a motion to send a favorable recommendation to the County Commissioners for the Letter to be accepted as submitted. Mr. Hickman seconded the motion, and the motion passed with all in favor.

STAFF REPORTS

Mr. Mackey:

- Two of the Task Force questionnaires have been received back thus far. Mr. Mackey said he hopes to receive the rest back soon, so that they can begin to prepare the summer meeting schedule.
- Staff is preparing for the Task Force meeting on June 9th.
- At the June 23rd meeting, we will have the presentation of the Economic Development Plan.
- Mr. Mackey said he appreciates everyone's time and outstanding effort that is being made on the Task Force.

Carla Gerber:

- Ms. Gerber said she is staying busy with Task Force reports, building permit review, MALPF inspections, and review of easement applications.

Ms. McCann:

- The Maryland Department of Planning sent out an email pertaining to the Governor's Smart Growth Subcabinet Public Forum which will take place on July 21st. Planning Commissioners and Planning staff are invited to attend. Ms. McCann said she will forward the email to everyone. She said it is a good opportunity to interact with the Governor's subcommittee on Smart Growth.

ADJOURN

There being no further business for the good of the organization, the meeting adjourned at 2:10 p.m.



Kim Kohl, Chairman



Sandy Adams, Clerk